

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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MANUEL L. PACHECO,

Petitioner,

MEMORANDUM & ORDER  
10-CV-4180 (JS)

-against-

HAROLD GRAHAM,

Respondent.

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APPEARANCES:

For Petitioner: Manuel L. Pacheco, pro se  
No. 04 A 1923  
Auburn Correctional Facility  
P.O. Box 618  
Auburn, NY 13024

For Respondent: No appearances.

SEYBERT, District Judge:

On September 9, 2010, Manuel L. Pacheco, pro se, petitioned this Court for a writ of habeas corpus under 28 U.S.C. § 2254. After conducting an initial review of Mr. Pacheco, the Court concluded that the Petition was likely untimely. Accordingly, on October 22, 2010, the Court ordered Mr. Pacheco to show cause why it should not sua sponte deny his Petition as time-barred. See Docket No. 3. Initially, the Court gave Mr. Pacheco sixty (60) days to answer the Show Cause Order. But, upon Mr. Pacheco's request, the Court extended his time to respond until February 7, 2011. See Docket No. 5. That deadline expired weeks ago, and Mr. Pacheco still has not answered the show cause order. Consequently, the Court, having

provided Mr. Pacheco with "prior notice and opportunity to be heard," now dismisses his Petition sua sponte. Acosta v. Artuz, 221 F.3d 117, 125 (2d Cir. 2000). Additionally, because there can be no debate among reasonable jurists that Petitioner's claims do not entitle him to § 2254 habeas relief, the Court will not issue a Certificate of Appealability. See Middleton v. Attorneys General, 396 F.3d 207, 209 (2d Cir. 2005). The Clerk of the Court is directed to mark this matter as closed.

SO ORDERED

/s/ JOANNA SEYBERT  
Joanna Seybert, U.S.D.J.

Dated: Central Islip, New York  
February 25, 2011